

**UNITED STATES OF AMERICA  
NATIONAL LABOR RELATIONS BOARD  
REGION 8**

**ZORRO TRUCKING, LLC**

**Employer**

**and**

**Case No. 8-RC-16794**

**CHAUFFEURS, TRUCKING, WAREHOUSEMEN AND  
HELPERS OF AMERICA, LOCAL NO. 377**

**Petitioner**

**ORDER DIRECTING HEARING ON  
OBJECTIONS AND NOTICE OF HEARING**

Pursuant to a Stipulated Election Agreement approved by the Acting Regional Director on February 22, 2006, an election was conducted on March 24, 2006, among the employees in the following described unit:

*All full-time and regular part-time truck drivers, mechanics, mechanic helpers and laborers employed by the Employer at its 2761 Salt Springs Road, Youngstown, Ohio 44509 facility, who were employed during the payroll period ending Saturday, February 11, 2006, but excluding all office clerical employees, managers, confidential employees, guards and supervisors as defined in the Act.*

The tally of ballots issued after the election showed that of approximately 16 eligible voters, 16 cast ballots, 6 of which were cast for and 7 against the Petitioner. There were 3 challenged ballots, a number sufficient to affect the outcome of the election. Pursuant to a Stipulation on challenges approved by me on April 11, 2006 a Revised Tally of Ballots was prepared and served on the parties. The results revealed that the majority of valid votes counted plus challenged ballots had not been cast for the Petitioner.

On March 30, 2006, the Petitioner filed timely Objections to Conduct Affecting the Results of the Election, a copy of which was duly served upon the Employer.<sup>1</sup>

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<sup>1</sup> The petition was filed on February 13, 2006. I have considered only conduct occurring during the critical period which begins on and includes the date of the filing of the petition and extends

### **PREFATORY NOTE**

Pursuant to the provisions of Section 102.69 of the Board's Rules and Regulations, an investigation of the objections has been conducted. On April 17, 2006, the Petitioner requested the withdrawal of Objection No. 2, which I now approve. I also make the following findings and conclusions.

I have concluded that Petitioner's Objection No. 1, discussed below, can not be resolved ex parte. Thus, I am issuing an **Order Directing Hearing on Objections** with respect to Objection No. 1.

### **THE OBJECTION**

A copy of the Petitioner's objections are attached and incorporated.

#### **OBJECTION No. 1**

In this objection, the Petitioner asserts that on or about March 13, 2006, the Employer interfered with the laboratory conditions necessary for a free and fair election by, for the first time, offering a health insurance plan to its employees.

The evidence submitted by the Petitioner consists of documents allegedly passed out by the Employer to the employees on March 13, 2006. The Petitioner alleges that these documents show that the Employer began offering health insurance care coverage on that date.

The Employer has countered that allegation and evidence with documents that support its assertion that it has been offering health insurance to its employees since August of 2005.

Because neither the documents offered by the Petitioner nor the documents offered by the Employer definitively establish when the health insurance benefit was first offered and made known to the employees, I have concluded that Objection No. 1 raises substantial issues of fact and law which cannot be resolved in an *ex parte* investigation. Therefore, I am ordering that a hearing be held regarding this objection.

### **CONCLUSIONS AND RECOMMENDATIONS**

I conclude that the Petitioner's objection discussed above raises substantial and material factual issues which should be resolved at a hearing and not on the basis of an administrative investigation. **Erie Coke and Chemical Company, 261 NLRB 25 (1982).**

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through the election. **The Ideal Electric and Manufacturing Company, 134 NLRB 1275 (1961).**

## **ORDER**

**IT IS HEREBY ORDERED** that the Petitioner's Objection No. 1 be resolved at a hearing before a duly designated hearing officer.

**YOU ARE HEREBY ORDERED** that on the 4<sup>th</sup> day of May, 2006, and on consecutive days thereafter until completed at 10:00 a.m., in a Hearing Room of the National Labor Relations Board, Region 8, Room 1695, Anthony J. Celebrezze Federal Building, 1240 East Ninth Street, Cleveland, Ohio, a hearing will be conducted before a hearing officer of the National Labor Relations Board to resolve the issue raised by the Petitioner's Objection No. 1, at which time and place the parties will have the right to appear in person or otherwise give testimony and call, examine and cross-examine witnesses and present oral argument pertinent to the issues raised by the objections.

**IT IS FURTHER ORDERED** that the hearing officer designated for the purpose of conducting the hearing shall prepare and cause to be served upon the parties, a report containing resolutions of the credibility of witnesses, findings of fact, and recommendations to the Board as to the disposition of the issues raised by the objections herein. Within fourteen (14) days from the date of the issuance of said report any party may file with the Board in Washington, D.C., an original and eight (8) copies of exceptions to such report. Immediately upon the filing of such exceptions, the party filing the same shall serve a copy thereof upon each of the other parties to this proceeding and upon the Regional Director and shall file a statement of service with the Board. If no exceptions are filed to such report, the Board may, upon the expiration of the period for filing exceptions, decide the matter forthwith upon the record or make other disposition of the case.

Dated at Cleveland, Ohio this 20<sup>th</sup> day of April, 2006.

/s/ Frederick J. Calatrello

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Frederick J. Calatrello  
Regional Director  
National Labor Relations Board  
Region 8